

1894-025 Chancery Causes. Samuel M. Beaty vs. A. P. With &
Lee Co.

Tucker, Ball, Morgan

CA-Debt

T-Property

1 To the Honorable H. S. K. Morrison Judge of the Circuit
2 Court of Lee County Virginia:

3 Humbly complaining your Orator ^{Mr.} Samuel Beatty
4 a citizen of said county of Lee would respectfully represent
5 that one ^{late} A. P. Witt likewise a citizen of said county ^{but now a non resident} is
6 justly indebted to him in the sum of One Thousand dol-
7 lars, which became due and payable April the 8th 1890
8 with legal interest thereon from the 8th day of April 1890
9 to show which, your Orator states that on said 8th day
10 of April 1890, the said A. P. Witt, executed and delivered
11 to him his note or bond in writing, which is herewith
12 filed as a part of this bill. Marked (A) by which said
13 note or bond the said A. P. Witt on said 8th day of April 1890
14 undertook promised and agreed to pay to your Orator
15 Two years after the date thereof the said sum of One
16 Thousand dollars for value received, with interest thereon
17 from the date of said note or bond. And as to said debt
18 &c. the said A. P. Witt waived the benefit of his home
19 stead exemption, each and every part of which is unpaid ^{your Orator} ~~now due~~

20 Your Orator states that about the day of 18
21 he contacted and sold to said A. P. Witt a tract of
22 ^{and being in Lee County} land lying in the neighborhood of Boons Path adjoining
23 the lands of Chas. E. Bayler and others, known as the old
24 Sam Shulbourns farm, containing from 300 to ⁴⁰⁰ ~~400~~ acres, for which
25 the said Witt was to pay your Orator the sum of \$4000.00
26 all of which has been paid, except the sum of \$1000.00 and
27 the interest thereon which is ordered by the note or bond first
28 herein referred to. And at the time of said bargain and
29 sale, your Orator executed to the said A. P. Witt his bond
30 for a title to said tract of land, when the purchase money
31 therefor should be fully paid

32 Your Orator states that by a deed dated the 10th day

Your Orator states that soon after making said sale the
said A. P. Witt left the state of Virginia and is now
a non-resident of the state.

1 of October 1892 he and his wife have made executed and
2 acknowledged for record a deed of conveyance, by which
3 they have conveyed to said A. P. Witt said tract of land, so
4 sold by your Orator to him with covenants of general war-
5 ranty, and this original deed is herewith filed, marked (B)
6 and this deed of conveyance is herewith filed as an escrow
7 to be delivered to said A. P. Witt when the balance of the
8 purchase money due thereon shall be fully paid;

9 Your Orator further states that while this matter stood as
10 between himself and said Witt, ^{as just stated,} the latter bargained and sold
11 said tract of land to one William Tucker and S. M. Ball
12 who thereupon took possession thereof under their said purchase
13 and are now in the peaceful possession thereof; *

14 Your Orator states that at the time said Tucker and Ball
15 so purchased said land from Witt, they were aware of the
16 fact that said Witt was still owing your Orator, the said
17 \$1000.00 of purchase money, with the accruing interest thereon
18 and they took ^{and accepted} said land, subject to the vendors lien thereon
19 for the said unpaid purchase money.

20 Your Orator states that so far as he is concerned, he has now
21 fully executed the contract between him and said Witt, by the
22 execution of said escrow deed, and having done so, he is now
23 entitled to have a specific execution of the said contract on
24 the part of said Witt, and that the said tract of land now
25 in the possession of said Tucker and Ball is liable to be taken
26 and applied by a court of equity to the payment of your
27 orators said debt of \$1000. and accruing interest, which constitutes
28 a valid and subsisting lien thereon, and to attain that
29 end is the object of this bill;

30 The premises considered your Orator prays that the
31 said A. P. Witt, Wm. Tucker and S. M. Ball be made defendants
32 to this bill and be required to answer the same.

That order of publication be made posted and published against
the said A. P. Witt.

1 that upon a hearing thereof, a decree be rendered in
2 favor of Henry Orator against the said A.P. Witt for One
3 Thousand dollars with legal interest thereon from the
4 8th day of April 1890 till paid and the cost of this suit
5 that said tract of land or so much thereof as may be necessary
6 to pay said debt and cost, be decreed to be sold. And
7 if in any wise mistaken in this his Special prayer
8 then your Orator prays for all general relief. May
9 the Commonwealth writ of Habeas Corpus directed to.

Henry J. Morgan Counsel

July. 150

C 10.03

S 1.00

At 15.00

Pr. 5.00

\$32.53

Samuel M. Braty

vs. } Orig Bill in Chy

A. P. Witt & others

1892 1st Octo Rules
Bill filed, Spu
Eyd on home debts
D. Wisi as to their
Order Pub. as to non
resident debt & could
" 2nd Octo Rules D. Wisi
Couple & could for O.P.
" 14th Nov. Rules could
" 14th Dec " "
1893 14th Jan " "
" 1 Feb " "
" 2 " " Order Pub.
Completed cause set for
hearing by Plff.

To the Hon. H. S. K. Morrison Judge of the
Lee County Circuit Court.

The separate demurrer and answer of
Wm. Tucker to a bill of complaint filed in this
honorable court against him and A. P. Witt &
P. M. Ball by Samuel M. Beatty; for demurrer says
that said bill is not good and sufficient
in law and he accordingly demurs thereto & prays

Not waiving his said demurrer but
wholly relying & insisting thereon, should any
further or other answer be deemed necessary
for answer says — That it is true as he is
informed and believes that said Witt did sell
to said A. P. Witt the tract of land mentioned in
said bill, and it is also true that your
respondent, afterwards, as well as the said
P. M. Ball purchased the same land from the
said Witt in different parcels. as follows —
Your respondent purchased one hundred
acres and has fully paid the amount
he agreed to pay the said Witt for the land
except about ~~seventy four~~ ^{seventy four $\frac{43}{100}$} dollars which
your respondent estimates is due upon said
land, and which sum should your honor
consider ~~should~~ ^{ought to} be paid to complainant he is
ready and willing to pay the same as your
honor shall direct. Your respondent would

further show that after he had made the
said purchase and had paid a large amount
of the purchase money, the said P. M. Ball
purchased the residue of said land amounting
to Two hundred & ten acres - and he is informed
and believes that the said Ball still owes
the vendor A. P. Witt something near the sum of
\$2000 ^{as} ^{tract of land conveyed to said A. P. Witt}. Which your orator is advised should
be first subjected to the payment of complainant's
debt as no one could thereby be injured as he
on the purchase price
owes, nearly double the amount demanded by
complainant and your respondent would be
greatly damaged by now being deprived
of his home having been in the possession
of the same for two years and spent large sums
of money improving the same. ~~that as he at~~
~~different times made payment on the said~~
~~land complainant well knew~~ And complainant
well knew that he had paid ^{a large part of} the purchase
money and knew it at the time the same
was paid, and made no objection whatever
or set up any claim to the same by reason
of the pretended lien. Upon the whole your
respondent prays that the said Two hundred & ten
acres conveyed to said Ball be subjected to
the payment of complainant's claims, and if the same
be not sufficient to pay the same, then should

your honor be of the opinion that after respondent
pays whatever amt. is due upon his purchase
that ~~the~~ ^{he} ~~respondent~~ has a lien upon his interest
then it should be satisfied. Respondent thinks
that cannot lost his lien upon his interest as
he stood by and saw him pay to his vendor
the purchase money as aforesaid without objection
thus entering into and practicing a fraud
upon your respondent. Your respondent
prays that this may be considered an over-
cross bill or petition so that the same
may be most effectually in obtaining the
relief herein sought and to equity belonging
Joachim & Blomkenshop -
Subj. for Deft.

Virginia Lee County to wit

This day Wm. Tucker personally appeared before
me and made oath that the foregoing facts as
set forth in the above is true to the best of
his knowledge & belief in so far as he knows himself
and he believes them to be true in so far as he depends
upon his knowledge from other sources. Given
under my hand this March, 7th 1893

John R. Gibson D. C.

Wm Tucker
vs } Answer

Samuel M. Beatty

Filed in open
Court by leave
thereof March
7th 1853
J. A. Hyatt

Samuel M. Beatty Pff }
 vs. } In Chancery
 A. P. Witt & others Defts }

This cause came on again to be finally heard on the papers formerly read in the cause, and the report of Special Comr. Henry J. Morgan dated Dec: 4 and filed in the cause Dec: 10 1893 showing that he had collected the ^{balance of the} entire purchase money due for the land sold in this cause on the 15 day of May 1893 and ^{that he had} paid the same to the Pff S. M. Beatty amounting to \$817.04 as shown by his receipt filed with said report; and was argued by counsel, and the said report being unaccepted, ^{to} on consideration whereof it is adjudged ordered and decreed that said report be confirmed and it is further ordered that as the entire purchase money is now paid, that the deed of Beatty wife to Witt filed as an escrow in this suit, be now delivered to the deft Witt and no further action being necessary in the cause. The parties are hence dismissed and the cause stricken from the docket.

S. M. Bratley

as { Dec. 10. 3 final
3

A. P. Watt others
E. O. P. Page 562
Mich 9th 1894

Enter this
March 9 1894
H. S. K. M.
—

Samuel M. Beatty

vs

A. P. Witt & others

Plff

Defts

by Geo. C. Clegg

This cause came on again to be heard further this day on the papers heretofore read therein, and the report of Special Comr. Henry J. Morgan dated and filed in the cause May 16 1893 showing the sale of a part of the tract of land in the bill mentioned to the deft A. P. Witt for \$1252.06 and the receipt of \$461.28 by said Comr. Morgan of the purchase price thereof, and the disbursement of that sum by him, and was argued by counsel, and said report being unaccepted to. On consideration of all which it is adjudged ordered and decreed that said report be and the same is hereby confirmed and the cause is continued

S. M. Brady

no } June No 2

A. P. Hitt + others

Entered Clk O.B.

page 477.

June 7th 1893

J. A. Hyatt

Enter this

June 7 1893

H. A. M.

Samuel M. Beatty

Plff

vs.

Im Chy

A. P. Witt & others

Defts

On the motion of Mr. Tucker one of the defendants in this cause, leave is granted him to file his demurrer and answer to the plaintiffs bill and the same was thereupon filed and the plaintiff thereupon joined in said demurrer and entered a general replication to said answer, And upon consideration of the said Demurrer the same is overruled and thereupon the cause came on to be heard upon the bill of the Plff and exhibits therewith, taken for caption by the defts Witt, and Ball, and the answer of Mr. Tucker and the order of Publication entered, posted and published against the deft A. P. Witt, and was argued by counsel. On consideration of all which it is adjudged ordered and decreed that the Plff Samuel M. Beatty, recover of the defendant A. P. Witt, the sum of One Thousand dollars with legal interest thereon from the 8th day of April 1890 till paid, and the costs of this suit, And it appearing to the court, that the sum above decreed the Plff against said Witt, operates as a subsisting and valid vendors lien, on the entire tract of land sold by the Plff to the deft Witt and now in the possession and hands of the defendants P. M. Ball & said Mr. Tucker, and that the whole of said tract of land is liable to be taken and applied to the ^{payment of the} plaintiffs demand if necessary. But since it appears to the court by the answer of the deft Tucker, that he purchased of his co. deft Witt 100 acres of said tract of land, and has nearly paid him therefor, and that his co defendant P. M. Ball purchased of said Witt the residue of said tract of about 210 acres, and that said Ball is still owing said Witt, more than a sum sufficient

to pay the sum before decreed the plaintiff against the said
Hatt. It is therefore further adjudged ordered and decreed
that unless the debt Hatt or some one for him, shall pay
to the plaintiff within 20 days from the rising of this court
the sum before decreed him
then that the tract of land in the bill mentioned consisting
of 310 acres or so much thereof as may be necessary be
sold as will pay the plaintiff's debt and cost, but in making
this sale, the land sold by said Hatt to said P. M. Ball shall
be first sold, or so much thereof as may be necessary for
the purpose, and in the event that this should prove
insufficient for the purpose, then that so much of that tract
sold by Hatt to Tucker, will be sold as will pay the
residue of the plaintiff's debt and cost, the sale here ordered
shall be made at public auction to the highest bidder
at the front door of the court house of Lee County on some
court day after the same shall have been duly advertised
for 30 days previous thereto showing time, terms and place
of sale. At this sale so much cash as will pay the costs
of suit and sale, and one third part of the plaintiff's debt
will be required to be paid in hand, and as to the resid-
ue of said debt, 6 & 12 months time will be given in
equal installments with interest from date, and the purchaser
required to give bond with approved security for the deferred
payments. And Henry J. Morgan is appointed a special
court to execute this decree, who before doing so, is required
to execute bond with good security before the clerk of this
court in the penalty of \$2000.00 with condition to account
for all money he may receive in the cause, and he will
report his action to the court & the cause is continued

Samuel M. Beatty

as { Dec. No. 1.

A. F. Hyatt & others

Entered A. B. page
442-443. March 8th 1892
J. A. G. Hyatt, c.

Entered this

March 8 - 1893

A. S. K. M.
1 1 1

Virginia. Circuit Court Lee County
J M Beatty.

vs.

A P With. Wm. Tucker & P M Ball

Deff

Defts

in Chy

I do swear that from information recently obtained
the defendant A P With is not a resident of the state of Virginia
as I verily believe so help me god.

Sworn to before me
this 11 day of Oct 1892

Henry J Morgan

clerk

S M Beaty

vs.

A P Witt and

affidavit

Received of H. J. Morgan My atto in the case of myself
vs. A. P. Witt & others. his check on Pavells Valley Bank
for Three Hundred and twenty five dollars and 38 cents
collected by him from said A. P. Witt May 16 1893

Samuel M. Beatty

Samuel M. Beatty

vs.

A. P. Watt & others

Defts

Defts

In Chy

1 Recd, of H. J. Morgan Cash in this cause Eleven dollars &
2 fifty three cents the fees due on this May 16 1893

3 J. A. Hyatt Clerk

4 Recd, of H. J. Morgan Cash & as above One dollar the fees due
5 on in said case May 16 1893

6 A. E. Flannery Sheriff

7 Recd of H. J. Morgan Cash & as above Five dollars the fees due
8 on for our Publication therein May 16 1893

9 Geo. C. Coleman L. Republican

10 I have returned in my own hands as Cash \$48.37 of which
11 \$15.00 is the Tax fee in the case \$15.00 for commission on first \$300-
12 of sale and \$18.37 commission on residue of sale May 16 1893.

13 Henry J. Morgan atts & Cash

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Samuel M. Beatty

25. } Cont. Report of sale of land

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A. P. Witt & others

Filed May 16 1893;

J. A. G. Syrett

\$817.04

S. M. Beatty vs. A. C. Witt & others - In Levy

Received of Harry J. Morgan Const. in the above styled suit
the sum of Eight Hundred and Seventeen dollars and four
cents being the balance in full of the purchase money due
from A. C. Witt, for the land sold in said cause. And I hereby
authorize said Morgan to Surrender to said Buyer his and
said Witts notes to him as Const. for said purchase money Dec 4 1893

Samuel M. Beatty

Samuel M. Beatty Pffg
vs. } In Chancery
A. P. Witt & others. Defts }

To The Hon H. S. K. Morrison Judge of the Circuit Court of Lee County Virginia:

The defendant A. P. Witt who was the purchaser of that part of the tract of land in the bill mentioned sold by him to P. M. Ball. And ~~the~~^{re} sold in this cause, on the 15th day of May 1893 by the undersigned as a commissioner for the purpose of paying the balance of the purchase money. On the 4th day of Dec. 1893 paid to me the two deferred payments or installments of the purchase money, amounting in the aggregate to \$817.04 and on the same day I paid the same sum of money to the plaintiff Samuel M. Beatty who gave to me his receipt for the same, and the said receipt is herewith filed or attached showing this fact; and the purchase money now being paid. The defendant Witt is now entitled to the deed of Beatty to him filed as an answer in the cause, and this winds up the matters of this suit, so that the cause may be stricken from the docket

Respectfully Submitted

Harry J. Morgan

Dec. 4 1893

Samuel M. Beatty

vs } Cont. Report. Recd. & Disbursements
of purchase money

A. C. Witt others.

Filed Dec. 10 1893

A. B. Munsey Clerk

\$ ⁰⁰1000 ⁰⁰/₁₀₀

April 8th

1890

Two years

after date I promise to pay to the order of

Samuel M. Beatty

At

One Thousand

Dollars,

for value received, and I hereby waive, as to this debt, the exemption from liability of the property which I may be entitled to hold exempt under the provisions of the Homestead Law. Witness my hand and seal with ink from date

P.O.

Co.,

State

A. P. Witt Secy

Due

(A)

A P Hitt
to 3 mte
10008

S M Bitt

KNOW ALL MEN BY THESE PRESENTS, That we *O Henry J. Morgan*
and J. A. Hyatt

are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Two*
Thousand (2000) dollars, to the payment whereof, well and truly

to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our
and each of our heirs, executors and administrators, jointly and severally, firmly by these
presents, hereby waiving the benefit of our homestead exemptions as to this obligation,
and any claim, right, or privilege to discharge any liability arising under this bond, or by
virtue of said office or trust, in any currency, funds, counter claims or offsets other than
legal-tender currency of United States. Sealed with our seals, and dated *10th* day
of *April*, one thousand eight hundred and *Ninety three*

The Condition of The Above Obligation is Such, That if the above bound
O Henry J. Morgan
shall faithfully perform the duties of *his* office, or, trust, as *Commissioner*

under a decree of the Circuit Court of the County of Lee, pronounced on the
day of *March*, 18*93*, in the suit therein depending
under the name and style of *S. M. Beatty* Plaintiff
vs. *A. P. Witt et al* Defendant

and properly account for all sums of money *he* may receive as
such *Commissioner*

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the presence of
O Henry J. Morgan (SEAL.)
J. A. Hyatt (SEAL.)
(SEAL.)

In the Clerk's Office of the Circuit Court of the County of Lee

This day
suret on the above bond, made oath before me, J. A. G. Hyatt, Clerk of the Circuit
Court of the County of Lee, that
estate after the payment of all just debts, and those
for which bound as securit for others, and expect to have
to pay worth the sum of dollars.

Given under my hand this day of 18
Teste: Clerk.

S. M. Beatty
vs
Bond
A. P. Witt et al
Filed April 10/1893
J. A. S. Hyatt

6 11.53
 5 1.00
 25 5.00
 2 15.00
32.53

A.C. Witt note to S.M. Beatty dated April 8 1890 Int from date \$1000.00

Interest to May 15 1893 - 3 years 1 mo + 7 days $\frac{186.16}{1186.16}$

Add for costs of this suit \$32.53

" 5% on first \$300 of the debt 15.00

" 2% on remainder of \$910.17 $\frac{18.37}{65.90}$

It will require this sum to pay debt & cost May 15/93 1252.06

Total Debt due poff May 15 1893 is \$1186.16

One third thereof to be paid in cash \$395.38

One note Int from date 395.38

" " " " " 395.38 1186.16

Cash one third paid Int \$395.38
 costs of suit & sale $\frac{65.90}{461.28}$

Virginia At Rules held in the clerk's office of the Circuit Court
of Lee County on the 3rd Monday in Oct 1892

Samuel M. Beatty

vs.

Defts

In Chy

A. P. Witt Wm Tucker and P. M. Ball

Defts

The object of this suit is to recover against A. P. Witt \$1000.00 with
interest thereon from the 8th day of April 1890 till paid and the cost,
and to subject to the payment thereof the tract of land in the bill
mentioned now in the possession of the defts Tucker and Ball
and it appearing by affidavit filed in the cause that the
deflt A. P. Witt is not a resident of Virginia It is ordered
that he appear here within one month And do what is necessary
to protect his interest in this suit

H. J. Morgan P. Q.

J. A. Hyatt Clerk

S M Beatty

no { Order Pub.

A. P. Wattsother

I certify that
I posted an
office copy of this
order on Lee Co.
door on first day
Nov. County Court
1892. and deliver
an office copy to
Lee Co. Republican
for publication
on the Oct. 27th
1892. J. A. Hyatt

The Commonwealth of Virginia.

TO THE SHERIFF OF LEE COUNTY GREETING:

We Command You to Summon

*A. P. Witt, Wm. G.
Lucker and P. M. Ball*

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday in

October next, being rule day to answer a bill in Chancery exhibited in our said Court against

them by *Samuel M. Beatty*

And have then and there this writ Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse. This *26th*

Sept day of *1897* in the 11th year of the Commonwealth.

A Copy Teste

J. A. G. Hyatt Clerk.

Ch. M.

Samuel M. Beatty

vs J. P. Ball

in Chcy

A. P. Witt

Lo 1st Octo Rules 1892

Executed by de
livering an office
copy of within
Summons to P. M.
Ball, and J. H.
Tucker, A. P. Witt
not found in the
Commonwealth. His
Oct 1st 1892.
Geo. Q. Vanderwerker
for C. E. Flannery
S. W. C.

The Commonwaalth of Virginia.

TO THE SHERIFF OF LEE COUNTY GREETING:

We Command You to Summon

*A. P. Witt, Mrs. Y.
Lucken and P. M. Ball*

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday in
October next being rule day to answer a bill in Chancery exhibited in our said Court against
them by *Samuel M. Beatty*

And have then and there this writ Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse. This *26th*
day of *Sept.* 18*02* in the 11*7* year of the Commonwealth.

A Copy Teste

J. A. G. Hyatt Clerk.

For
A. D. Witt

VIRGINIA. At Rules held in the clerk's office of the circuit court of Lee county on the 3rd Monday in October 1862.

Samuel M. Beaty, Plaintiff.

vs.

A. P. Witt, Wm. Tucker and G. M. Bail dfts.
In Chancery.

The object of this suit is to recover against A. P. Witt \$1000.00 with interest thereon from the 8th day of April 1890 till paid and the cost, and to subject to the payment thereof the tract of land in the bill mentioned now in the possession of the defendants Tucker and Ball and it appearing by affidavit filed in the cause that the defendant A. P. Witt is not a resident of Virginia. It is ordered that he appear here within one month and do what is necessary to protect his interest in this suit.

J. A. G. HYATT, Clerk.

H. J. Morgan, p. q.

no104t

VIRGINIA, Lee County, To wit: I
Geo. C. Coleman, editor and publisher
of the LEE COUNTY REPUBLICAN, a news-
paper, printed in the town of Jonesville,
in the county of Lee, Virginia, do here-
by certify that the foregoing order of
publication was duly published in said
paper for four successive weeks, from
and after the 1st day of Nov.....
189⁹.... Ending on the 8th day of Dec....
~~.....~~ 189⁹....

Geo. C. Coleman,

Editor and Publisher.

Printed for 5.00

S. M. Beatty

$\frac{2}{3}$ Printers

vs $\frac{2}{3}$ certificate

A. P. Witt et al

Drs fee \$5.00